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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,423	07/10/2001	Michael A. Lloyd	24717-707	8239

28960 7590 04/07/2006

HAVERSTOCK & OWENS LLP  
162 NORTH WOLFE ROAD  
SUNNYVALE, CA 94086

EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/903,423

Applicant(s)

LLOYD ET AL.

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/14/05, 09/12/05, 11/23/05</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the applicants Amendment filed on January 20, 2006.
2. Claims 1-20 are pending in this application. Claims 1, 14, and 17 are independent claims. In Amendment, claims 9-13 and 18-20 are withdrawn. This Office Action is made non-final.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-8 and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (U.S. 6,446,028).
6. Regarding claim 1, Wang discloses a method of measuring a performance of a route in an internetwork, the route coupling an internetwork server to a terminal on the internetwork (e.g.

Art Unit: 2143

abstract and Figures 5-7), the method comprising: at a frequently trafficked portal on the internetwork, detecting a request for a web page from the terminal, wherein the web page is at least partially stored at the frequently trafficked portal (e.g. col. 1 lines 25-30 and col. 2 lines 42-52); in response to the request for the web page, downloading the web page to the terminal via the internetwork (e.g. col. 2 lines 42-52 and Figure 7); from the web page, retrieving a Uniform Resource Locator (URL) for a web object referenced in the web page (e.g. operator manually clicks or selects another object within the page for viewing or retrieving); resolving the URL to the internetwork server (e.g. inherently for resolving URL through DNS server from name server to IP mapping); detecting a request for the web object from the terminal at the internetwork server; in response to the request for the web object, sending the web object from the internetwork server to the terminal (e.g. col. 2 lines 42-52 and Figure 7 repeating step); and concurrent with sending the web object, measuring a Round Trip Time (RTT) of one or more packets sent between the internetwork server and the terminal (e.g. Figure 7 for only a single object because the second request made by the operator is only for the single object).

7. Regarding claim 2, Wang further discloses the web page is at least partially encoded in a markup language (e.g. inherently through col. 1 lines 25-30 and col. 2 lines 42-52).

8. Regarding claim 3, Wang further discloses the markup language is Hyper Text Markup Language (e.g. inherently through col. 1 lines 25-30 and col. 2 lines 42-52).

9. Regarding claim 4, Wang further discloses the sending the web object from the internetwork server to the terminal is performed via a Hyper Text Transfer Protocol (HTTP) (e.g. inherently through col. 1 lines 25-30 and col. 2 lines 42-52).

Art Unit: 2143

10. Regarding claim 5, Wang further discloses the Hyper Text Transfer Protocol is HTTP v 1.0 (e.g. inherently through col. 1 lines 25-30 and col. 2 lines 42-52 as old version of web decoder).

11. Regarding claim 6, Wang further discloses the Hyper Text Transfer Protocol is HTTP v 1.1 (e.g. inherently through col. 1 lines 25-30 and col. 2 lines 42-52 as new version of web decoder).

12. Regarding claim 7, Wang further discloses the web object is visually imperceptible (e.g. hidden object or so small in size).

13. Regarding claim 8, Wang further discloses the web object comprises a single pixel (e.g. inherently any web object must be at least a single pixel size).

14. Regarding claim 14, it has same limitations as cited in claim 1. Thus, claim 14 is also rejected under the same rationale as cited in the rejection of rejected claim 1. Further, Wang inherently disclose a DNS system for mapping or resolving URL when accessing internet.

15. Regarding claim 15, it has same limitations as cited in claim 2. Thus, claim 15 is also rejected under the same rationale as cited in the rejection of rejected claim 2.

16. Regarding claim 16, it has same limitations as cited in claim 3. Thus, claim 16 is also rejected under the same rationale as cited in the rejection of rejected claim 3.

17. Regarding claim 17, it is a method claim of claim 14. Thus, claim 17 is also rejected under the same rationale as cited in the rejection of rejected claim 14.

### ***Conclusion***

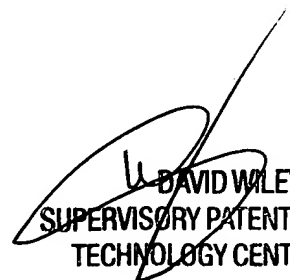
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H Nguyen  
Examiner  
Art Unit 2143

March 31, 2006

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100